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COURT OF APPEAL, FOURTH APPELLATE DISTRICT

DIVISION ONE

STATE OF CALIFORNIA

THE PEOPLE,

Plaintiff and Respondent,

v.

DAVID BRADLEY WOODS,

Defendant and Appellant.

D060910

(Super. Ct. No. SCD234736)

APPEAL from a judgment of the Superior Court of San Diego County, Laura H. Parks, Judge. Affirmed.

A court convicted David Bradley Woods of one count of arson of a structure or forest (Pen. Code,¹ § 451, subd. (c)). The court also found true four alleged prison priors (§§ 667.5, subd. (b), 668) and an alleged strike prior (§§ 667, subds. (b)-(i), 1170.12, 668). The court sentenced Woods to prison for a total of 10 years. The court imposed the base middle term of four years then doubled the sentence to eight years for the prior

¹ All statutory references are to the Penal Code unless otherwise specified.

strike conviction. After striking two of the four prison priors, the court imposed consecutive one-year terms for the remaining two prison priors.

Woods appeals, contending the court abused its discretion in imposing the middle term when it failed to consider his mental health condition as a mitigating factor at sentencing. We find no abuse of discretion and affirm the judgment.

FACTUAL AND PROCEDURAL HISTORY

On June 9, 2011, the San Diego Fire Department responded to a brush fire at 4949 Santa Fe Drive. Upon arrival, Woods stood near the fire and said he started the fire. San Diego Fire Department Captain Kristina Quinones testified that Woods made nonsensical statements about being in the military and trying to protect the military. San Diego Police Officer Ryan Welch testified that Woods told him he started the fire because he worked for the government and heard some electronics on the hills. Woods testified that two individuals began following him and he believed the individuals planned to rob him. Woods stated he panicked and started the fire so someone would call the police to come help him. Woods testified he did not remember any of the statements he made to the fire department or police but believed he told them about the men who threatened him. The court found Woods guilty and found the prior prison allegations and the prior strike allegation true.

Before sentencing, Dr. Gregg Michel completed a forensic psychological examination of Woods and concluded Woods suffered from paranoid schizophrenia. Woods's counsel submitted a sentencing memorandum asking the court to impose the lower term of a total of six years based on various mitigating factors. Specifically,

Woods's trial counsel argued his criminal conduct was partially excusable due to his mental illness and should outweigh any aggravating factor presented by the People. The People argued Woods posed a danger to the community and himself due to his inability to control his impulses. The People urged the court to impose the 12-year sentence as recommended by the probation department's report.

After argument, the court imposed a 10-year sentence. In doing so, the court selected the middle term of four years, doubled to eight for the strike prior conviction and imposed two consecutive years for two of the four prison priors. The court then struck the other two prison priors. In sentencing Woods, the court reasoned:

"And the court is selecting the mid[dle] term based on the information about the defendant and his inability to control his impulses and the serious nature of the offense and the danger that it causes, but also recognizing the mitigating factors that the defendant immediately admitted responsibility for the fire and that, in fact, there was minor damage caused by the fire."

DISCUSSION

We must affirm a trial court's discretionary sentencing choice unless it is arbitrary, capricious, or irrational. (*People v. Avalos* (1996) 47 Cal.App.4th 1569, 1582.) We review the court's decision under the deferential "abuse of discretion" standard. (*People v. Carmony* (2004) 33 Cal.4th 367, 374.) Under this standard, we do not reweigh sentencing factors or substitute our evaluation for that of the sentencing court. (*Id.* at p. 373.) "In reviewing for abuse of discretion . . . "[t]he burden is on the party attacking the sentence to clearly show that the sentencing decision was irrational or arbitrary. [Citation.] In the absence of such a showing, the trial court is presumed to have acted to

achieve the legitimate sentencing objectives, and its discretionary determination to impose a particular sentence will not be set aside on review." ' ' ' (Id. at pp. 376-377, quoting *People v. Superior Court (Alvarez)* (1997) 14 Cal. 4th 968, 977-978.)

The middle term is presumed to be the appropriate term unless there are circumstances in mitigation or aggravation. (*People v. Avalos, supra*, 47 Cal.App.4th at pp. 1582-1583.) A sentencing court has wide discretion in weighing aggravating and mitigating factors and may balance them in both qualitative and quantitative terms. (Id. at p. 1582.) The court's discretion includes the authority to minimize or even disregard mitigating factors. (Id. at p. 1583.) California Rule of Court 4.406(b)(4)² requires the trial court to state its reasons for imposing a prison term other than the middle statutory term. However, the court need not state its reasons if imposing the middle term or for minimizing or disregarding mitigating factors. (*Ibid.*) The sentencing judge is deemed to have considered the relevant factors "unless the record affirmatively reflects otherwise." (Rule 4.409; *People v. Holguin* (1989) 213 Cal.App.3d 1308, 1317-1318.) Here, the record does not reflect otherwise.

While the court did not explicitly refer to Woods's schizophrenia in its reasoning for imposing the middle term, the court is not mandated to state its reasons for rejecting mitigating factors. However, the record before us evidences the court considered Woods's mental health condition. While not explicitly stated, our review of the record indicates the court considered Woods's schizophrenia as a mitigating factor through its

² All rule references are to the California Rules of Court unless otherwise specified.

review and consideration of Dr. Michel's report, defense's sentencing memorandum, and counsel's arguments at the sentencing hearing. The defense's sentencing memorandum specifically referred to rule 4.423(b)(2) regarding Woods's diminished culpability resulting from his mental condition which the court considered prior to sentencing. However, the court is not mandated to find a particular mitigating factor persuasive and impose the lower term as the result of a mental health condition, specifically Woods's schizophrenia.

Moreover, the court departed from probation's recommendation of a 12-year sentence by striking two of the four prison priors. The court struck two prison priors "in the interest of justice for the reason that the defendant immediately took responsibility for the offense and caused relatively minor damage." This is further evidence that the court considered mitigating factors in reaching its decision. The court here acted well within its discretion in imposing the middle term.

DISPOSITION

The judgment is affirmed.

HUFFMAN, Acting P. J.

WE CONCUR:

HALLER, J.

McDONALD, J.